In the Hon'ble the High Court of Uttaranchal
At Nainital

WRIT PETITION NO. 924 (M/S) of 2003

Gopal Ram ……Petitioners

Versus

District Judge, Bageshwar & another ……..Respondents

Hon'ble M.M. Ghildiyal J.

By means of this writ petition, the petitioner has challenged the order dated 20/08/2003 passed under Public Premises Act whereby the prescribed authority issued direction for issuance of notice under Section 5 (1) of Public Premises Act and order dated 20/08/2003 dismissing the appeal of petitioner by the District Judge, Bageshwar.

Proceedings for eviction of petitioner were initiated under Public Premises Act against the petitioner and the prescribed authority on 26/06/2003 recorded a finding that the petitioner is in unauthorized occupation and consequently notice under Section 5(1) of Public Premises Act for eviction of the petitioner be issued against him. Aggrieved by the aforesaid order the petitioner filed appeal before the District Judge, Bageshwar who by order dated 20/08/2003 dismissed the appeal of the petitioner.

Learned Counsel for the petitioner has placed reliance on the judgment in the case of Harish Ram Vs. State of UP and Others decided by the Allahabad High Court on 1st July, 1997 and has submitted that since 1990, the petitioner is making representation for regularization of his possession in view of Government order dated 12th September, 1976. He has further submitted that he is in possession for the last 40 years and his representation has not been decided by the authority concerned. As agreed by the Learned Counsel for the petitioner as well as Learned Standing Counsel the writ petition is finally disposed of with the direction that the petitioner may apply to the appropriate authority for regularization of his possession in terms of the Government order dated 12th September, 1976, and the said authority will consider and dispose of the petitioner's claim within a period of 3 months from the date of production of certify copy of this order along with a petition for regularization is made before it. Such

application shall be made within a month from today. In case, the petitioner's possession is regularized and the necessary formalities in that regards are fulfilled, the order of eviction shall not be enforced against the petitioner. In case, however, the application for regularization is rejected, the order of eviction may be enforced according to law.

(M.M.Ghildiyal, J.)

September 22, 2003
Aswal